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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision : 25th October, 2010

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+ W.P.(C) 2427/2010

SHRI VIRENDRA SINGH RAJPUT Petitioner
Through : Mr. Ankur Chhibber, Adv.

versus

UNION OF INDIA & OTHERS Respondents
Through : Mr. A.K. Bhardwaj and
Mr. Anuj Aggarwal, Advs.

+ W.P.(C) 2433/2010

SHRI RAJESH KUMAR Petitioner
Through : Mr. Ankur Chhibber, Adv.

versus

UNION OF INDIA & OTHERS Respondents
Through : Mr. A.K. Bhardwaj and
Ms. Sapna Chauhan, Advs.

CORAM :-

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE J.R. MIDHA

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|----|---|-----------|
| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | NO |
| 2. | To be referred to the Reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

GITA MITTAL, J. (Oral)

1. Virendra Singh Rajput and Rajesh Kumar have assailed the action of the respondents in denying them the consideration for promotion from the post of Sub-Inspector to

Inspector with the Central Reserve Police Force ('CRPF' hereafter) by way of the present writ petitions. The petitioners were not granted promotion on the ground that they did not fulfill the mandatory requirement of two years field service (Battalion duty).

The petitioners are seeking a mandamus to the respondents to waive the said condition and consider them for such promotion.

2. In support of the writ petitions, reliance has been placed by the petitioners on the judgment dated 27th October, 2009 rendered in **WP(C)No.21900/2005 Ashok Kumar vs. Union of India and Ors.** as well as connected writ petitions which raise an identical issue in the context of personnel who were employed by the Border Security Force as well as the Central Reserve Police Force.

3. Mr. A.K. Bhardwaj, learned counsel appearing for the respondents has handed over a copy of a signal dated 26th August, 2010 which we have taken on record whereby the respondents have been informed that no counter affidavit is required to be filed in the instant writ petitions for the reason that the petitioners would be covered by the aforementioned judicial precedent.

4. Just as in the case of **Ashok Kumar vs. Union of India** (Supra), there is no dispute herein also to the contention of the petitioners that they were not responsible in any manner for their postings. We find force in the submission of the

petitioners that it was for the respondents to have taken appropriate steps for issuing the posting orders to duty battalions in case such service was to be considered essential for promotions.

5. Having failed to do so, the petitioners cannot be denied promotion for the reason that they have not served in the field positions.

6. The petitioners have also drawn our attention to the power available with the competent authority under the rules for relaxing/waiving the requirement of two years service in the duty battalion. Such power has been exercised and the condition already relaxed in respect of the identically situated persons by the respondents.

In view of the above, it is directed as follows:-

- (i) The decision of the Central Government declining to relax the eligibility condition of two years service in duty battalion for promotion of the petitioners to the post of Inspector under the CRPF shall stand quashed.
- (ii) A direction is issued to the Central Government to reconsider the case of the petitioners, after the aforenoticed relaxation, and to pass appropriate orders, if the decision is taken in their favour, for promotion with effect from the date persons immediately junior to the petitioners were promoted. In such eventuality, the petitioners

would be entitled to all consequential benefits including seniority, pay fixation and arrears of pay.

- (iv) The case of the petitioners shall be forwarded by the competent authority to the Ministry of Home Affairs positively within a period of four weeks from today. The consideration by the Ministry of Home Affairs shall be communicated to the petitioners within eight weeks thereafter.

These writ petitions are allowed in the above terms.

Dasti under signature of court master.

GITA MITTAL, J

J.R. MIDHA, J

OCTOBER 25, 2010
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